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Attorneys for Defendant

UNITED STATES DISTRICT COURT
IN AND FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NICHOLAS SEAN CARTER,

Defendant

No. 4:19-CR-6063-SMJ-2

UNOPPOSED MOTION TO CONTINUE
TRIAL DATE AND PRE-TRIAL
CONFERENCE AND RESET DEADLINES

Note: January 31, 2020
Without Argument
Judge Mendoza at Richland

COMES now the Defendant, by and through his attorneys and requests this Court grant the defendant's Motion to Continue Pre-Trial Date and Trial Date and re-set deadlines. This matter currently is scheduled for trial on March 16, 2020. The defendant would request a trial date set at least 90 days, to June 16, 2020, to allow his counsel to review recently received discovery and interview witnesses and prepare for trial as well as receive information on the defendant's new matter that was recently filed on January 22, 2020, Cause No. 20-CR-5-SMJ.

Mr. Carter is aware of this request and will submit a signed Speedy Trial Waiver with this motion. The government does not oppose this request. Co-defendant's counsel has no objection to this request.

ARGUMENT

The Supreme Court has stated that "broad discretion must be granted trial courts on matters of continuances." *Morris v. Slappy*, 461 U.S. 1, 11 (1983). When the defendant's sixth

1 amendment right to counsel is implicated a court must balance several factors to determine if the
2 denial [of a continuance] was “fair and reasonable.” Among the factors are: whether the
3 continuance would inconvenience witnesses, the court, counsel, or the parties; whether other
4 continuances have been granted; whether legitimate reasons exist for the delay; whether the
5 delay is the defendant's fault; and whether a denial would prejudice the defendant. *United States*
6 *v. Studley*, 783 F.2d 934, 938 (9th Cir. 1986) (quoting *United States v. Leavitt*, 608 F.2d 1290,
7 1293 (9th Cir. 1979) (per curiam))

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9 On January 22, 2020, Mr. Carter was charged with a new Indictment alleging drug
10 distribution and weapons possession, 20-CR-5-SMJ-2. This new case will affect this matter as
11 well as the other pending matters. Additional time is also necessary to complete counsel's
12 investigation in this matter and the new matter and further review the discovery with Mr. Carter.
13 A denial of this request to continue would severely prejudice the defendant. Clearly a
14 continuance is warranted, and the granting of the request would be proper.

15 CONCLUSION

16 For the reasons stated herein, it is respectfully request that the defendant's Motion to
17 Continue the Trial Date and Pre-Trial be continued. It is further requested that the Pre-Trial
18 Motions Deadline be re-set.

19 Dated this 29th day of January 2020.

20
21 *s/ Nicholas Marchi*
22 NICHOLAS MARCHI
23 Carney & Marchi, P.S.
24 Attorneys for Defendant
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CERTIFICATE OF SERVICE

I certify that a copy of the Motion to Continue PTC and Trial Date was e-mailed via ECF /mailed first class, postage prepaid on 01/29/2020, to S. Van Marter, Assistant United States Attorney, 402 E. Yakima, Ave., Suite 210, Yakima, WA 98901 or P.O. Box 1494 Spokane, WA 99210 and to A. Pechtel, attorney for Co-defendant, Mr. Pacheco-Robles.

s/Nicholas Marchi
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Attorneys for Defendant